

SV-244

FOUNDED FEB 25, 1876

WASHINGTON
★ COUNTY ★
IDAHO

Planning & Zoning Application for Special Use

NAME: Maria M. Negrete PHONE NO: (208)550-2035

OTHER: (208)550-1545

ADDRESS: 1105 Dillon Dr. Weiser Idaho 83672
CITY STATE ZIP

PROPERTY ADDRESS & LEGAL DESCRIPTION: Lot A, TBD E. 12th Street
Weiser, Idaho 83672

DESCRIPTION OF PROPOSED SPECIAL USE: To build our dream home and
have a nice garden

ZONING CLASSIFICATION: A1

*FEE: A \$600.00 fee must accompany this completed application.
(An application fee of \$100.00 and Deposit of \$500.00)*

1. **PLAN:** A plan for the proposed site for the special use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, and yards.
2. **NARRATIVE:** A narrative statement evaluating the effects of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan.

Prior to granting a special use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held. At least 15 days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be provided to property owners and residents within the land being considered, 300 feet of the external boundaries of the land being considered.

Upon granting of a special use permit, conditions may be attached to a special use permit including but not limited to, those:

- A. Minimizing adverse impact on other development.
- B. Controlling the sequence and timing of development.
- C. Controlling the duration of development.
- D. Assuring that development is maintained properly.
- E. Designating the exact location and nature of development.
- F. Requiring the provision for on-site or off-site public facilities or services.
- G. Requiring more restrictive standards than those generally required in an ordinance.

Prior to granting a special use permit, studies may be required of social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a blind precedent to grant other special use permits. A SPECIAL USE PERMIT IS NOT TRANSFERABLE FROM ONE PARCEL OF LAND TO ANOTHER.

The P & Z Administrator reserves the right to not officially accept this application until total review is accomplished and all required information is submitted. The date of the public hearing will be established by the P & Z Administrator upon the acceptance of a complete application.

APPLICANT SIGNATURE: Marcia M. Negrete
DATE: 2/16/24

FOR OFFICE USE ONLY

DATE RECEIVED: 02/16/2024
ACCEPTED BY: PAT
HEARING DATE: 03/18/2024 City of Weiser Impact Area

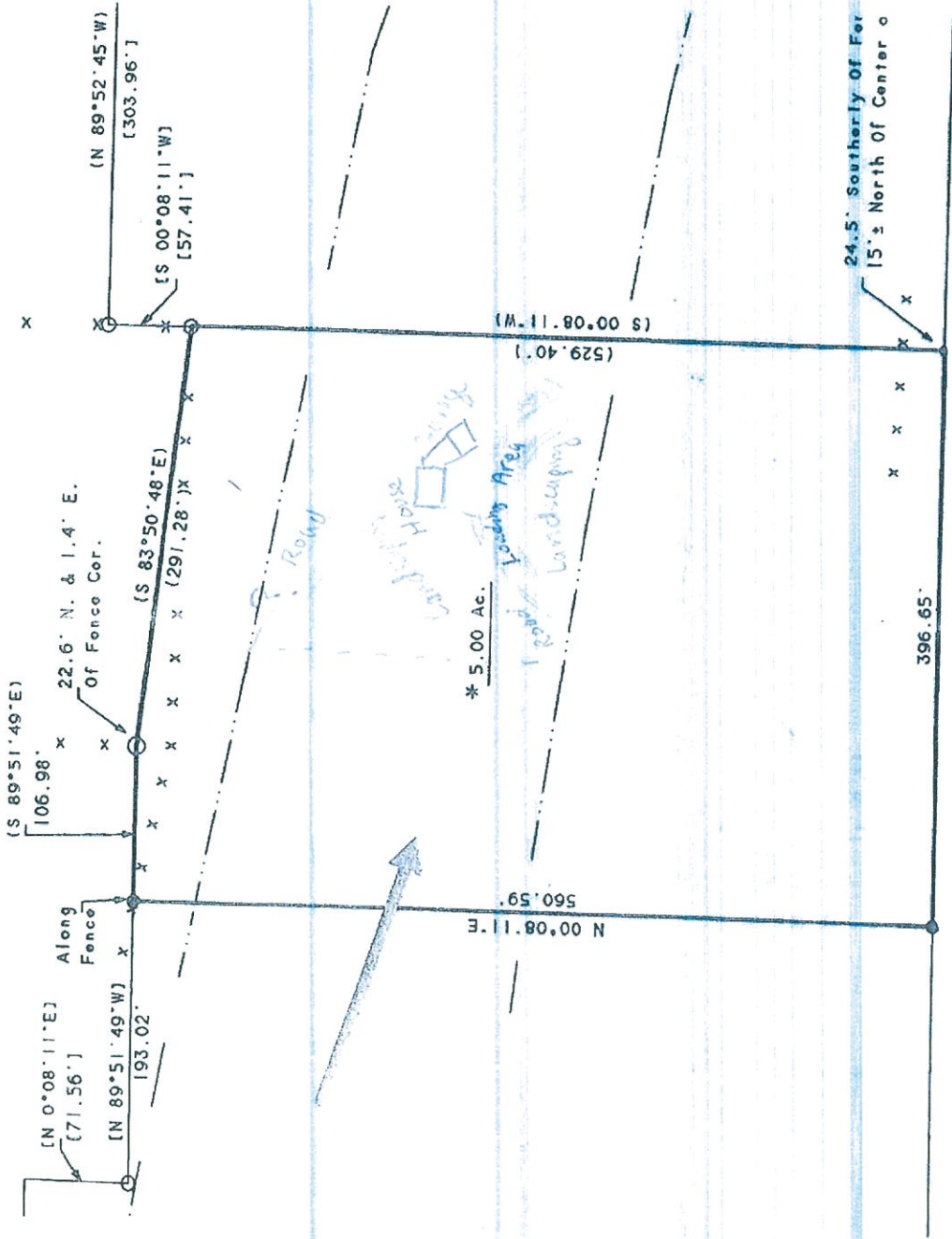
NARRATIVE STATEMENT:

Planning and Zoning Application for Special Use.

We evaluated the effect of such element as noise, glare, order, fumes, and vibration on adjoining property, we found **NONE**.

We just want to build our retirement home, without disturbing the peace. Electricity will be building underground, will be using city water, a septic will be added to the property as well. We will add beautiful landscaping, where our grandchildren can play.

Plan



Map



23

T11N R5W

33

E 2th St

RP11N05W563058
STERLING DENNIS I
HANSEN DANA
RP11N05W288220
RP11N05W284900
ROBERT AND MARILYN FAMILY TRUST
RP11N05W288000
SALES UNLIMITED INC
RP11N05W562016
CALHOON DIXIE C
COMER AMANDA R
RP11N05W286780
RP11N05W562020
DAUDI DUANE H
MILLER BRUCE E
RP11N05W286770
RP11N05W286760
BOKIDES NICHOLAS E
RP11N05W286720
LEE LAWRENCE A ETUX
COLEMAN KEVIN
RP11N05W286710
SMITH CARL W
CITY OF WEISER
SWSW
RP11N05W286850
RP11N05W286720
BLANK
RP11N05W286640
GUTHRIE MARY J
FFIELD LYNELLE K
PRIORESCHI RAYANNE
RP11N05W286924
RP11N05W287063
SCHIFF NOLAN J
TAYLOR WILLIAM G
RP11N05W287064
PACK MEGAN KATHLEEN
RP11N05W287066
RP11N05W286030
RP11N05W286030
CHANDLER CODY R
RP11N05W286924
CHANDLER CODY R
RP11N05W286886
CHANDLER CODY R
RP11N05W286924
CHANDLER CODY R
RP11N05W286924
TONYA JACQUELINE
RP11N05W286780
CAFURRO PROPERTIES
RP11N05W286780
RP11N05W286780

STAFF REPORT

**Maria M. Negrete
Application for Special Use**

HEARING DATE: March 18,2024 at6:30 pm

ADDRESS: TBD Off of East 12th Street

PARCEL NUMBER: RP11N05W287063

LEGAL DESCRIPTION:

APPLICANT: Maria M. Negrete

SUMMARY OF THE PROPOSAL

**Requesting Special Use for a parcel over One Acre but less than 20 Acres in the City Impact Area
To Build a One Family Residence**

APPLICABLE ORDINANCE

PROJECT DESCRIPTION

PROPOSED USE: Residential

ACCESS: Off of East 12th Street

IRRIGATION: None

SEWER AND WATER: City Water , Septic

AGENCY RESPONES:

RECOMMENDED FINDINGS OF FACT

SITE CHARACTERISTICS

- 1. Property Size: Five Acres**
- 2. Existing Structures: None**
- 3. Existing Vegetation:**
- 4. Soil Information:**

5. **Slope: Hillside**
6. **Irrigation: None**

7. **Access: Off of East 12th Street**

VICINITY CHARACTERISTICS:

8. **Existing Homes in Area: Single Family Residential**
9. **Average Lot Size: One to Five Acres**
10. **Platted Subdivisions: Mattews Subdivision, Sage Mesa Subdivision**
11. **Comprehensive Plan Designation:**
12. **Current Land Use:**
13. **Current Zoning:**
14. **Surrounding Land Use: Residential**
15. **Area of City Impact:**
16. **Area(s) of Concern:**
17. **Services:**

PROCEDURAL HISTORY

RECOMMENDED CONCLUSIONS OF LAW

RECOMMENDED ORDER

The City Staff recommends the Approval of this request, as it is the best use of this property.

LEGAL NOTICE IS HEREBY GIVEN that the City of Weiser Planning and Zoning Commission will hold a public hearing on the 18th day of March, 2024 at 6:30 p.m. at the City Council Chambers, 55 West Idaho, Weiser, Idaho.

The purpose of this hearing will be to receive comment on the following matter.

Maria M. Negrete Special Use Request

The applicant is requesting a special use permit to allow for a dwelling to be placed on a parcel of land that is greater than one acre but less than 20 acres on property located off East 12th Street in the Weiser Area of City Impact.
RP11N05W287063

All interested persons are invited to attend the hearing and comment or submit written comment prior to or at the hearing. Any person needing special accommodations to participate in noticed meetings should contact the City of Weiser seven (7) days prior to the meeting at 208-414-1965.

Findings of Fact and Conclusions

As concluded by P&Z Commissioner Tony Edmondson

Special Use Permit requested by Maria M. Negrete to “build a dream home” on a greater than one and less than twenty-acre non-conforming parcel located off E 12th St in Weiser Impact area

Public Hearing 08-21-23

As stated in the Givens Pursley “Land Use Handbook” dated October 30, 2022, “The Comprehensive Plan has one purpose and one purpose only: to guide planning and zoning decisions”.

- LLUPA requires that “zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan.” Idaho Code 67-6511(1).
- Amendments to zoning ordinances shall occur only “after considering the comprehensive plan.” Idaho Code 67-6511(2)(b).
- In addition to zoning changes, the conditional use permits (aka special use permits) may be issued only if found to be “not in conflict with the (comprehensive) plan.” Idaho Code 67-65129A).
- Finally, LLUPA references comprehensive plans in the context of the requirement for a reasoned statement by the decision-maker explaining the basis for the approval or denial of a land use application. Idaho Code 67-6535(1) and 67-6535(2).

Findings of Fact:

1. Please refer to detail items #1-17 in “Recommended Findings of Fact” section of Staff Report presented with the application and attached hereto.
2. During the public hearing, the applicant presented on her behalf. There was no written public testimony and only one person (adjacent property owner) in attendance testifying in support of application.
3. Prior to the hearing, P&Z was advised on another impact area land use application that was remanded back to P&Z, that city zoning rules (aka zoning classifications) should be applied to the request, despite the application being processed by the county and the requested land use zoning classification ascribed to the application being county “C-2”.
4. This application was also processed through the county which requires a special use permit to site a home on this parcel which would otherwise be allowed under city code without a conditional use permit.

5. In August 2023, a nearly identical request (Robert and Sue German) was received, and a conditional use was approved following county regulations as has been the practice for multiple years leading up to this point.
6. Weiser City Code 10-16-4 and Washington County Code 4-1-4 both grant jurisdiction in the impact area for all matters concerning zoning, building, subdividing, to Washington County, subject to the terms and conditions otherwise stated in their respective chapters.
7. Weiser City Code 10-16-6 further clarifies that all planning, zoning, subdivisions, granting of variances, notices and hearings, and any matters granted under the local planning act other than building permit requirements in the impact area, will be administered by the City of Weiser. It goes on to state "Ordinances of Washington County shall first be established, amended, granted, or otherwise processed for approval or other appropriate action by the city of Weiser Planning and Zoning Commission", etc. After approval and recommendations by the city, such matters will be submitted directly to the Washington County Commissioners for approval, disapproval, or remand.
8. Given the confusion created by these land use applications being processed through the county with requested county land use zoning classifications but a verbal directive from the county prosecuting attorney to assign Weiser zoning definitions, a decision on this request was tabled pending consultation with legal counsel.
9. Counsel's recommendations in this matter were received by email on March 29th as follows: "If you have two applications regarding the area of impact, they should be processed and addressed under the existing rules". Though acknowledged as "vague", we were advised to "go forward this way to avoid being challenged on changing the rules in the middle of the game". I interpret this to mean we continue doing things as we always have, by basing our recommendations on county zoning regulations and definitions.

Conclusions:

1. Please refer to detail items A-I in "Recommended Conclusions of Law" section of Staff Report attached hereto.
2. It is recommended that the City Council approve this request as presented with no additional conditions.

STAFF REPORT

**Maria M. Negrete
Application for Special Use**

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IRRIGATION: None

SEWER AND WATER: City Water , Septic

AGENCY RESPONES:

RECOMMENDED FINDINGS OF FACT

SITE CHARACTERISTICS

- 1. Property Size: Five Acres**
- 2. Existing Structures: None**
- 3. Existing Vegetation:**
- 4. Soil Information:**

weeds

- 5. Slope: Hillside
- 6. Irrigation: None
- 7. Access: Off of East 12th Street

VICINITY CHARACTERISTICS:

- 8. Existing Homes in Area: Single Family Residential
- 9. Average Lot Size: One to Five Acres
- 10. Platted Subdivisions: Mattews Subdivision, Sage Mesa Subdivision
- 11. Comprehensive Plan Designation:
- 12. Current Land Use: *NO CURRENT FARMING - WEEDS ONLY*
- 13. Current Zoning: *A1*
- 14. Surrounding Land Use: Residential
- 15. Area of City Impact: *WORTH & EAST OF CITY LIMITS*
- 16. Area(s) of Concern: *NONE*
- 17. Services: *SEPTIC & WELL*

PROCEDURAL HISTORY

RECOMMENDED CONCLUSIONS OF LAW

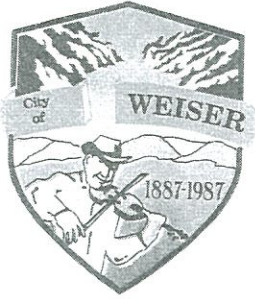
will need testing for count

Property is more than 1 acre but less than 20 acres. The areas around this land have already had special use permits because it is hillside property and not farmable.

RECOMMENDED ORDER

The City Staff recommends the Approval of this request, as it is the best use of this property.

DRAFT



**CITY OF WEISER
PLANNING & ZONING MEETING
CITY COUNCIL CHAMBERS
55 WEST IDAHO
WEISER, IDAHO
PUBLIC HEARING
March 18, 2024**

**6:30pm
AGENDA**

Roll Call 6:30:12 PM

PRESENT: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson.

ABSENT: John Jensen, Jay Edwards and Heather Dryden.

STAFF: Dave Loos and Brianna Chaney.

GUESTS: Maria Negrete, Jon Walker, Toni Smith, Karen Owen, Sue German, Bob German, Joe Randall Ricci Storelli, Judy Sterling and Bonnie Brent-Dowell.

1. Maria Negrete Special Use Permit Request 6:31:46 PM

6:31:58 PM Maria Negrete stated they purchased land on Chicken Hill and their plan is to build their retirement home there.

6:32:33 PM Larry Hogg asked if she knew why they were required to get a special use permit. Dave stated because of the size of the property and the zoning they would have to have a special use permit. Larry asked if the property was currently being farmed. Maria stated it was not.

6:33:59 PM Clarence Stark asked if there had been any testing yet through Southwest District Health regarding septic systems. Maria stated

no, she was waiting for this step to be done.

6:34:42 PM Mark Christensen asked how much land was in between the two roads. Maria stated she believed 3 acres.

6:35:48 PM Mark Christensen asked if there was any staff report. Dave stated no. City staff recommended approval of the request as it is the best use of the property.

6:36:16 PM Mark asked if there was any testimony in support of the application. There was none. He asked if there was any testimony neutral to the application. There was none. He asked if there was any testimony against the application.

6:36:52 PM Bob German, 1330 E 12th Street, said he was not against the application, he is for it but wanted to say. He said in September they came to the city to get their permit. He said they have talked with Maria before, she would be right next to their property. He stated the land should be built on, it is a good place for it and she would be a welcome addition to the neighborhood.

6:37:39 PM Tony Edmondson asked Maria what kind of a timeline she was looking at to get started with construction. She stated the builder told her that he will be ready to start anytime. Tony said he wanted to make sure she was aware this would still have to go before the City Council as well as back to the County. She stated she understood.

6:38:27 PM Hearing Closed.

2. Jon Walker Rezone Request-Request A-1 to C2 6:38:42 PM

6:39:01 PM Jon Walker 1460 E 7th St, said he is there for a rezone for a property along HWY 95. He said the last time he came before them they were requesting County commercial zoning and the County attorneys told him he had to go back to the City and request City zoning.

Jon read a statement he had prepared.

6:44:02 PM Larry Hogg said the County told him that the City would need to apply their zoning ordinances to the application and asked what zoning he was seeking. Jon said one that allowed storage units. Dave Loos said C2 is what he had on his application. With a C2 designation would not allow for storage units. He stated he would need to apply for a C3.

6:46:06 PM Ken Lukehart said if he remembered correctly it was because of crushed pipes that Jon was unable to irrigate it. Discussion followed.

6:46:57 PM Clarence Stark asked if Jon had created a development plan for the property. Jon said the person that is wanting to partner with him would help him with that.

6:48:01 PM Bonnie Brent, Washington County P&Z, said on the application it says C2 because it is the original application that was turned into the County. When it was stated that it had to come back to the City for City zoning they used the same application. Discussion followed.

6:49:28 PM Tony Edmondson stated what the process has been so far for zoning changes in the impact area.

6:51:05 PM Mark Christensen said this property does not have the option to be annexed by the City at this time.

6:51:52 PM Mark Christensen asked if there was any written correspondence. Paul Bertalotto's wrote a letter opposed to the application.

6:54:12 PM Mark asked if there was any staff presentation. Dave said the City was recommending a C2 designation, which is what was

applied for.

6:54:55 PM Mark Christensen asked if there was any testimony in support of the application. There was none. He asked if there was any testimony neutral to the application. There was none. He asked if there was any testimony opposed to the application.

6:55:22 PM Judy Sterling, 1130 Loafer Ln, stated she doesn't think the hill can handle the traffic, noise or eye sore that having storage units would cause. She stated she wants to see beautification.

Mark asked if there was anymore testimony opposed to the application.

6:57:20 PM Mark asked if Jon Walker wanted to rebut the testimony. Jon said with a development agreement they can address beautification and make sure there is not junk stored there. They can also address lighting to make it desirable.

6:59:17 PM Judy Sterling asked who would enforce that.

7:00:39 PM Bonnie Brent said the Commissioners had sent back the application he had submitted, so Jon would not have been able to change that. She said he was doing what the County had thought he was supposed to do at the time.

7:01:48 PM Hearing Closed.

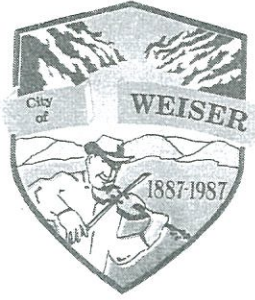
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Dave Loos, P&Z Administrator

Bri Chaney, P&Z Secretary

“Any person needing special accommodations to participate in the above noticed meeting should contact the Weiser City Clerk four(4) days prior to the meeting at Weiser City Hall, 55 West Idaho, Weiser, Idaho 83672.”

DRAFT



**CITY OF WEISER
PLANNING & ZONING MEETING
CITY COUNCIL CHAMBERS
55 WEST IDAHO
WEISER, IDAHO
Regular Meeting
March 18, 2024
7:00pm
AGENDA**

Roll Call 7:02:03 PM

PRESENT: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson.

ABSENT: John Jensen, Jay Edwards and Heather Dryden.

STAFF: Dave Loos and Brianna Chaney.

Minutes

Motioned by Tony Edmondson and seconded by Clarence Stark to approve the minutes from the February 20, 2024 meeting.

7:02:46 PM

AYES: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

Unfinished Business

None.

New Business

1. Maria Negrete Special Use Permit Request-Action Item 7:03:11 PM

7:03:23 PM Clarence Stark said if he is looking at what the best use for the land is, it is not prime Ag. He thinks having a structure there for someone to live in and take care of the land is the best use for the property.

7:04:07 PM Tony Edmondson stated he had an exchange with the City attorney. More discussion followed. He stated he believed they should table both applications until they receive more legal clarification.

7:08:43 PM Mark Christensen said he felt uncomfortable with moving ahead with the applications until they can speak more with the attorney.

7:09:56 PM Clarence Stark said as he sees it they have two separate issues. There is a difference in the applications and what they are asking. He said he is comfortable moving forward with Maria's application in this instance.

7:11:07 PM Tony Edmondson said he agrees, his hope would be if they table the applications for now then they could come back in two weeks and hold a special meeting. He stated in fairness to Jon, he doesn't think they can act on one application and table the other.

Motioned by Tony Edmondson and seconded by Clarence Stark to table the applications until they can get further legal counsel.

7:13:14 PM

AYES: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

2. Jon Walker Rezone Request-Action Item 7:13:22 PM

7:13:43 PM Dave Loos said they will need to also clarify the zoning on his application.

7:14:13 PM Clarence Stark said what they are trying to do is have the application originate with the City and then go to the County.

Motioned by Tony Edmondson and seconded by Ken Lukehart to table the application pending legal counsel.

7:15:29 PM

AYES: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

3. Comprehensive Plan Update 7:17:22 PM

7:17:34 PM Mark Christensen stated that he and Tony had met with the Mayor. He said their first focus has to do with the zoning map and the future land use map which has the impact area defined on it. More discussion followed regarding the maps.

7:21:55 PM Larry Hogg said the City Council also has a Zoning Committee that could possibly be used.

7:23:02 PM Clarence Stark said he would like to attend that committee meeting. Larry stated they do not have regular meetings but that they could put one together as long as they didn't have a quorum.

7:23:58 PM Tony Edmondson said in a workshop setting they could have a quorum as long as it is published.

Mark stated that the impact area map was adopted almost 20 years ago and they would like to see it updated.

More discussion followed.

Motioned by Clarence Stark and seconded by Ken Lukehart to send a resolution to the City Council to get updated accurate maps that correspond with the Comprehensive Plan at the earliest convenience.

7:35:28 PM

AYES: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

4. Education Plan Update 7:37:02 PM

Mark stated that Natasha was unable to make it to the meeting, but that she had sent him an email with quotes for different education options. More discussion followed.

5. Design Committee Update 7:42:06 PM

Tony said they are taking Nampa's code section by section and reworking and editing it. He stated when they are all done with those sections they will take it to the Mayor for legal review.

DRAFT

6. Adjournment-Action Item 7:44:58 PM

Motioned by Clarence Stark and seconded by Ken Lukehart to adjourn the meeting.

7:45:07 PM

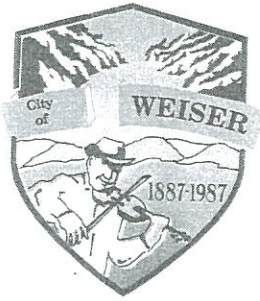
AYES: Ken Lukehart, Mark Christensen, Clarence Stark and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

DRAFT



**CITY OF WEISER
PLANNING & ZONING MEETING
55 WEST IDAHO
WEISER, IDAHO 83672**

**MONDAY
APRIL 1, 2024
7:00pm
SPECIAL P&Z MEETING**

Roll Call 7:00:03 PM

PRESENT: Jay Edwards, Heather Dryden, Ken Lukehart, Mark Christensen and Tony Edmondson.

ABSENT: John Jensen and Clarence Stark.

STAFF: Brianna Chaney and Dave Loos.

UNFINISHED BUSINESS

1. Maria Negrete Special Use Permit Request-Action Item 7:00:20 PM

Mark stated that they had the hearing on March 18. He said they put it on hold because they had advice from the attorney that the process they were doing was not in line with code. He stated they have since been advised that the process they have been doing is not illegal and that they can proceed the same way.

7:01:08 PM Tony Edmondson stated that the reason that this came up was because they had two applications that had come before them. One was the Maria Negrete application and the other was the Jon Walker application. The Jon Walker application had been remanded back to the city and they had been instructed to assign city code to the county application. The request as it was reflected county zoning. He stated that he had sent a request to the Mayor to get more legal counsel. Tony read an email exchange that he had with the City Attorney for the Commissioners. More discussion followed.

Motioned by Tony Edmondson and seconded by Ken Lukehart to approve the conditional use permit as requested.

Larry said to clarify, they are making a recommendation to the City Council to make a recommendation to the County to approve the application request.

7:08:32 PM

AYES: Jay Edwards, Heather Dryden, Ken Lukehart, Mark Christensen and Tony Edmondson

DRAFT

NAYES: None
ABSTAINED: None
MOTION CARRIED.

NEW BUSINESS

1. None.

2. Adjournment-Action Item 7:08:46 PM

Motioned by Heather Dryden and seconded by Tony Edmondson to adjourn the meeting.

7:09:01 PM

AYES: Jay Edwards, Heather Dryden, Ken Lukehart, Mark Christensen
and Tony Edmondson

NAYES: None

ABSTAINED: None

MOTION CARRIED.

Dave Loos, P&Z Administrator

Bri Chaney, P&Z Secretary

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